

# CASE DIGEST

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A VREB SPEAKING Supplement

## Case 1:

On February 3, 1995, Rachel Hollinger, as seller, entered into a contract with Ray Lawton, as president of Highland Properties, to sell her property on Green Mountain Drive. This contract identified Teabury Realty, a division of Continental, Inc., as the broker bringing about the transaction. Teabury Realty represented the seller. The specific agent was not named in the contract. The seller agreed to pay the broker 5% of the sales price, in cash, at settlement. At the time of the transaction, Lawton was a licensed as an associate broker with Continental, Inc.

On or about February 20, 1995, an addendum was executed between Hollinger and Lawton to reduce the contract price.

On February 20, 1995, in answer to an inquiry by the Board's agents, Lawton stated that he owned all of the shares of Teabury Realty. Lawton failed to disclose his ownership interest in the subject contract. This failure to disclose his ownership interest in writing in the offer to purchase was in violation of the Board's 1992 Regulation 6.2.A, **Disclosure of interest**.

In a letter to the Board's agents dated October 8, 1996, Lawton stated that he was acting as the broker in the subject transaction. Lawton failed to identify himself as the broker in writing and failed to disclose whom he represented in the subject transaction. This failure to disclose his agency relationship in writing in the subject transaction was in violation of the Board's 1992 Regulation 6.3.A.1., **Disclosure of agency relationships**.

According to Philip Hollinger, the seller's son, when Lawton presented to Rachel Hollinger the addendum whose terms reduced the price of her property, she was hospitalized and in a "drugged" state, not fully capable of understanding the addendum that Lawton requested she sign.

Lawton's failure to act as a real estate broker in such a manner as to safeguard the interests of the public, was in violation of the Board's 1992 Regulation 6.6.8., **Unworthiness and incompetence**. Lawton admitted to the alleged violations of the Board's Regulations, and consented to a monetary penalty.

## Case 2:

George Grebes, a licensed real estate salesperson, met with Miriam Mitchell to view property which was represented as 75 Bark Bay Drive. The property Ms. Mitchell viewed was actually 78 Bark Bay Drive. Ms Mitchell entered into a contract through Mr. Grebes to purchase 75 Bark Bay Drive, believing this was the property she was shown. At settlement, it was discovered that the property that Grebes had shown Mitchell was not the one in the contract. Also, it was found that the 78 Bark Bay property, that was shown to Mitchell, was already under contract to another party. Mr. Grebes' misrepresentation of the property for sale was in violation of the Board's June 1995 Regulation, 6.11.7., **Misrepresentation/omission**. Grebes consented to pay a monetary penalty.

### Case 3:

During March, 1995, Allen North, as owner, executed listing agreements for the sale of condominium units 18 and 19, at 5503 East 98th Street, for a term through June, 1995. Rapid Real Estate, Inc., was the listing broker, with Hermine Givens, as the listing agent. Selina Donovan was the supervising broker at Rapid Real Estate. Each exclusive listing agreement specified in its terms and conditions, that it contained the final and entire agreement between the parties, and that an amendment could only be made in writing.

During May, 1995, North received a listing amendment from Rapid Real Estate informing him that the firm had withdrawn the listing by specifying the owner and agent agreed that the exclusive listing agreement is withdrawn effective May 10, 1995. Although North did not agree to this and did not sign the listing amendment, the listing was unilaterally withdrawn. As supervising broker, Donovan authorized the withdrawal of the listings.

In a July, 1995 letter to North, Miriam Shelby, the firm's principal broker, stated that the listing was a "unilateral agreement and that the Realtor may at their discretion decide to the agency relationship."

Shelby, as the principal broker of the listing agent, who had the exclusive listing agreement, failed to timely notify North of these material changes. Also, Donovan, as the managing broker of the listing agent who had the exclusive listing agreement, failed to timely notify North of these material changes. Both Shelby and Donovan violated the Board's 1992 Regulation, 6.11.2., **Delivery of instruments**.

Both Shelby and Donovan agreed to sign a Consent Order, and acknowledged the findings against them.

### Case 4:

Vernon Russo, owner, entered into a contract with Fred Farmer, of Hearthside Homes, for assistance and counseling in selling property at 4138 Oakey Court. Russo provided Farmer with information concerning deteriorating Fire Retardant Treated (FRT) plywood used on the roof of the property. Subsequently, Betsy Rodgers, entered into an agreement with Russo to purchase the Oakey Court property, through Fred Farmer. Farmer failed to provide the information regarding the FRT plywood to Rodgers. A year after settlement took place, Rodgers became aware of the problems of the FRT plywood used on the roof.

Farmer's failure to disclose material information related to the subject property was in violation of the Board's 1989 Regulation 6.10.2., **Misrepresentation/omission**. Farmer agreed to pay a monetary penalty.

### Case 5:

Matthew Victor was convicted in the Circuit Court of Richmond of Section 18.2-361, Code of Virginia, to-wit: Crimes Against Nature, a felony. Furthermore, Victor failed to inform the Board of this criminal conviction within 30 days. In addition to this felony conviction, Victor subsequently informed the Board of two misdemeanor convictions of a similar nature to the felony. These convictions were in violation of the Board's 1992 Regulation 6.6.5. **Unworthiness and incompetence**.

His failure to notify the Board of a convicted felony, in a timely manner, was in violation of the Board's 1992 Regulation 6.6.6, **Unworthiness and incompetence**. Victor consented to a monetary penalty and to an Agreement for Licensure, where he will report monthly as to any further convictions.

### Case 6:

Fred Hoover, a licensed salesperson, was involved in substantive discussions with Philip and Alexandra Magnate, as buyers, and Western Construction, as seller, for a house to be built in the Merry Manor Subdivision. Hoover created a contract between the Magnates, as buyers, and Western Construction, as seller for a property in the subdivision. Hoover did not complete an agency disclosure with the Magnates during his discussions with them, nor was there any earnest money deposited as the contract indicated. Mr. Hoover also signed the principals' names on the contract addendum without their knowledge or consent. Hoover represented to his firm that this was a fully ratified contract. Hoover received an advance commission on this contract.

Hoover's representation that he had a fully ratified contract that would result in an earned commission, when, in fact, he did not. This was in violation of the Board's June 1995 Regulation 6.11.7.,

**Misrepresentation/omission.**

Hoover's failure to act as a real estate salesperson in such a manner as to safeguard the interests of the public, or otherwise engaging in improper, fraudulent, or dishonest conduct was in violation of the Board's June 1995 Regulation 6.7.8., **Unworthiness and incompetence.**

Hoover's actions in signing the principals' names to the contract and representing that the signatures as true, when, in fact, they were not, was in violation of the Board's June 1995 Regulation 6.11.7.,

**Misrepresentation/omission.**

Hoover's failure to disclose his agency relationship in writing was in violation of the Board's June 1995 Regulation 6.3.A., **Disclosure of agency relationships.**

Hoover consented to the revocation of his inactive real estate sales license without the possibility of reinstatement by the Board.

**Case 7:**

Benjamin Villiard, a licensed real estate salesperson, built and owned a residence on Sunset Street, and listed it for sale through his firm, Eastrise Realty. On March 1, 1995, Villiard represented this house as "new" in a newspaper advertisement. In other written advertisements, he has represented the house as having a "9 year New Home (RWC) warranty" left on it.

On March 7, 1995, Ebe and Vivian Wilde entered into a contract to purchase the Sunset Street house. During the negotiations, Villiard provided the Wildes with an appraisal which stated that the heat pump was "new". About eight months after settlement, the "new" heat pump ceased operating. In the course of replacing it, the Wildes learned that the heat pump was actually seven years old, not under any warranty, and that Villiard had actually removed it from another house, and reinstalled it in the Sunset Street house. This was not disclosed to the Wildes at any time.

Villiard's failure to disclose material information related to the physical condition of the property, specifically that the heat pump was some years older than the house, was in violation of the Board's 1992 Regulation 6.10.2., **Misrepresentation/omission.**

Villiard's representations to prospective purchasers that the house was new, had a new heat pump, and was under warranty was in violation of the Board's 1992 regulation 6.10.6, **Misrepresentation/omission.**

Villiard consented to pay a monetary penalty.

**Case 8:**

An investigator for the Department of Professional and Occupational Regulation contacted Jimbob Findley, requesting information relative to a sales transaction. This transaction regarded property owned by Findley in Fairfax County. Findley failed to respond to the investigator's request for information regarding the transaction. This failure to respond was in violation of the Board's December 1995 Regulation 6.6., **Response to inquiry of the Board**. Mr. Findley was assessed a monetary penalty

#### **Case 9:**

The Virginia Real Estate Board received information from Joe Sommas, a resident of Florida, stating that his ex-wife, Paula Gillette, a resident of Virginia, used her affiliation as a real estate agent with two Virginia real estate firms to obtain credit reports, from a credit information service, for non-business purposes. A copy of Sommas' credit report indicated that his credit history was requested by Finnegan Properties in December 1994, and April 1995, and by Angel Realty during July 1995 and October 1995. The Board's record revealed Gillette was a licensee with these two real estate firms at the time these credit reports were requested.

The principals of both Finnegan Properties and Angel Realty stated Gillette was not authorized to run credit reports for her own personal reasons and on individuals who are not clients or customers. Gillette's failure to act as a real estate licensee in such a manner as to safeguard the interests of the public by obtaining credit reports through her real estate firm for personal reasons and without the firm's authorization was in violation of the Board's June, 1995 Regulation 6.7.8., pursuant to 6.4, **Unworthiness and incompetence**. Gillette consented to a monetary penalty.

#### **Case 10:**

During June 1988, Philip Blount was convicted in General District Court of issuing a bad check, a misdemeanor. During August 1990, he was subsequently convicted in City Circuit Court of robbery, a felony. In 1994, Blount submitted an application for licensure to the Board. He responded "no" to the question "have you ever been convicted of, pleaded guilty to, or entered in a plea of nolo contendere to a misdemeanor involving drug distribution, sexual offense, physical injury, or moral turpitude or any felony in any jurisdiction?" Blount was issued a real estate salesperson license. Subsequently, in 1995, Blount was convicted in Circuit Court of Construction Fraud, a felony. Blount failed to inform the Board within 30 days of being convicted of a felony. Blount's actions in obtaining a license by false or fraudulent representation is in violation of the Board's 1992 Regulation 6.6.1., **Unworthiness and incompetence**.

His conviction of a felony is in violation of the Board's June 1995 Regulation 6.7.6., **Unworthiness and incompetence**. Blount's failure to notify the Board of this felony was in violation of the Board's June 1995 Regulation 6.7.6., **Unworthiness and incompetence**. Mr. Blount's license was revoked.

#### **Case 11:**

In September, 1996, Fred Bliley, the principal broker of Bliley Properties, told the Board's agent that in March of 1996, the firm moved it's office from 7911 South Main Street, Richmond, Virginia, to 12 Martial Drive, Roanoke, Virginia. Bliley's failure to notify the Board, in writing, of the change of the firm's address, within ten days of the change was in violation of the Board's June 1995 Regulation 5.1.F., **Place of business**. Bliley consented to pay a monetary penalty.